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In re Application of
Philemon L. Bruner, et. al.
Application No. 09/497,284
Filed: February 2, 2000
Attorney Docket No. 10356.0035.NPUS00

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

The application became abandoned for failure to file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed November 16, 2004. A Notice of Abandonment was mailed on November 6, 2006.

Since the appeal brief filed on January 11, 2007 is non-compliant, the proposed reply required for consideration of a petition to revive must be a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). A Notice regarding the non-compliant appeal brief is being mailed with this decision on petition.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
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By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Non-compliant Appeal Brief



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09497284	2/2/00	BRUNER ET AL.	10356.0035.NPUS00

EXAMINER

Jeffrey A. Shapiro

ART UNIT PAPER

3653 20070928

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The Appeal Brief filed on 1/11/07 is still non-compliant for the reason set forth in the Notice of Non-compliant Appeal Brief of 5/30/06. Specifically, Appellant has fail to sufficiently set forth the subject matter of the independent claims as required by 37 CFR 41.37(c)(1)(v), which states, "A concise explanation of the subject matter defined in each of the independent claims involved in the appeal which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters." For example, Claim 1 contains limitations drawn to one or more sensors. This limitation in not mentioned nor a specific citation to the specification or the reference character for this limitation is not provided in the summary of claim 1. Therefore, the Appeal Brief is non-compliant and is non-responsive to the Notice of 5/30/06.